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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,299	07/02/2003	John Sargent French	CIRC.005C	3940
20987	7590	11/02/2004	EXAMINER	
VOLENTINE FRANCOS, & WHITT PLLC ONE FREEDOM SQUARE 11951 FREEDOM DRIVE SUITE 1260 RESTON, VA 20190			NGUYEN, TU T	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/613,299

Applicant(s)

FRENCH ET AL.

Examiner

Tu T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Species I (claims 1-19) in the reply filed on 09/29/2004 is acknowledged.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,9,12-14,16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al (5,148,230).

With respect to claims 1,9,12-14,17, Lane discloses a testing unit for test a DUT. The unit comprises: an optical transmitter 8 (fig 1), which transmits an optical test signal that is transmitted to a DUT 6 (fig 1); an optical receiver 20 (fig 1), which receives an input signal from the DUT; a display device 32 (fig 1) which provides an interface with a user; a memory module 28 (fig 1); a controller 30,34 (fig 1), selectively coupled to said transmitter, said receiver and said display device, wherein said controller provides a central control of said transmitter, said receiver and said display device.

Lane does not explicitly disclose a graphical user interface (GUI hereinafter). Since Lane discloses a display device 32 (fig 1) for displaying measured data (column 2, lines 25-45), It would have been obvious that Lane would have to have a GUI as

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claimed in order to communicate between the memory and the display device. Further, Lane does not explicitly disclose a sensitivity module. Because Applicant does not explicitly disclose the function or the structure of the claimed sensitivity module, Lane's High Density Memory 52 (fig 2) could be considered as the claimed sensitivity module.

With respect to claims 3,16, the claimed standard success module would have been known. It would have been obvious to modify Lane with the known standard success module to test whether the DUT meet the industry standard or not.

With respect to claim 18, Lane discloses a user interface 40 (fig 2).

With respect to claim 19, it would have been obvious to modify Lane to perform sensitivity measuring after an automated calibration procedure to facilitate the testing.

Claims 2,4,10-11,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al (5,148,230) in view of Tanimoto et al (6,069,697).

With respect to claims 2,15, Lane does not disclose a calibration module. Tanimoto discloses a system comprising a calibrating process for calibrating the system (column 6). It would have been obvious to modify Lane with the calibrating process as taught by Tanimoto in column 6 to facilitate the measuring.

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With respect to claims 4,10-11, Tanimoto discloses disposing the unit to a housing (column 5, line 58).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al (5,148,230) in view of Swanson et al (6,580,531).

With respect to claim 5, Lane does not disclose an optical power monitor. Swanson discloses a system comprising a power meter (column 8, lines 5-15). It would have been obvious to modify Lane with the power meter as disclosed in Swanson to monitor the power of the input light.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lane et al (5,148,230) in view of Swanson et al (6,580,531) and Tanimoto et al (6,069,697).

With respect to claims 6-7, Lane does not disclose an optical attenuator. Tanimoto discloses a system comprising an optical attenuator 2 (fig 1). It would have been obvious to modify Lane with Tanimoto's optical attenuator to control the level of the light as taught by Tanimoto in column 5, lines 40-45.

With respect to claim 8, Tanimoto discloses a control unit 12 (fig 1) for controlling the optical attenuator 2 (fig 2).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T. Nguyen whose telephone number is (571) 272-2424. The examiner can normally be reached on T-F 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley Jr. can be reached on (571) 272-2800 Ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tu T. Nguyen  
Primary Examiner  
Art Unit 2877

10/29/2004